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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

KERRY A. IVEY	)	DOCKET NO.
	)	09-0385
vs.	)	
	)	
CENTRAL ILLINOIS LIGHT COMPANY	)	
d/b/a AmerenCIILCO	)	
	)	
Complaint as to billing/charges	)	
in East Peoria, Illinois.	)	

Springfield, Illinois  
Thursday, March 4, 2010

Met, pursuant to notice, at 10:00 A.M.

BEFORE:

MS. LISA TAPIA, Administrative Law Judge

APPEARANCES:

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(Complainant appearing pro se)

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9 (Appearing on behalf of the  
10 Respondent)  
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1     evidentiary hearing in this case. Mr. Ivey, there is  
2     a couple questions I need to ask you. You will  
3     proceed first. First, actually, if you could stand  
4     and raise your right hand.

5                     (Whereupon the witness was duly  
6                     sworn by Judge Tapia.)

7                     KERRY IVEY

8     called as a pro se witness, having been first duly  
9     sworn, testified as follows:

10            JUDGE TAPIA: Mr. Ivey, you have your testimony  
11     and -- well, we can begin with your opening statement  
12     or we can begin with your testimony; what would you  
13     like to do? Would you like to start with your  
14     opening statement? What I need from you to hear is  
15     what the amount in controversy is, exactly the  
16     amount, and the relief you are requesting.

17            MR. IVEY: The exact amount?

18            JUDGE TAPIA: Yes.

19            MR. IVEY: According to what their amount is,  
20     it is --

21            JUDGE TAPIA: Because there was a couple of  
22     conflicts.

1           MR. IVEY:  Yes, there is because there has been  
2   interest added and stuff like that and late fees  
3   added.  I don't even know what all the late fees are.  
4   I have no idea because I paid part of them and part  
5   of them they stopped.

6           JUDGE TAPIA:  So you are asking for a certain  
7   amount of money in relation to this case, but you are  
8   not sure what that is.

9           MR. IVEY:  I am just going by what on my last  
10  --

11          JUDGE TAPIA:  Let's start with your testimony  
12  then.  Did you file testimony on October 15, your  
13  direct testimony?

14          MR. IVEY:  Yes.

15          JUDGE TAPIA:  And I am going to ask you a  
16  series of questions.  Would your answers be the same  
17  if you were asked today?

18          MR. IVEY:  Yes.

19          JUDGE TAPIA:  And are there any changes,  
20  additions, modifications that you would like to make  
21  to your testimony?

22          MR. IVEY:  The only modification is right here.

1 JUDGE TAPIA: For the record you have to state  
2 it.

3 MR. IVEY: I said in the record that I talked  
4 to Kelly on April 8. It was April 6 we talked.

5 JUDGE TAPIA: Now the year, you say 2009; do  
6 you mean 2008?

7 MR. IVEY: 2008.

8 JUDGE TAPIA: We will have the report reflect  
9 that it was April 6, 2008. Now, you have an amount  
10 on this statement \$966.89.

11 MR. IVEY: Yes.

12 JUDGE TAPIA: Is that the amount in  
13 controversy?

14 MR. IVEY: That's the amount at the time we  
15 started, but there has been interest added since  
16 then. It makes it, according to what their records  
17 sent to me, 1115 -- I think it was 1115.98 on the  
18 house bill.

19 JUDGE TAPIA: So perhaps we will get that  
20 amount cleared up when the defense presents its case  
21 or Ameren presents its case. And the exhibits, do  
22 you have your exhibits that can be entered into the

1 record today? Oh, actually, I am sorry, let me talk  
2 to you about your rebuttal testimony. Did you file  
3 your rebuttal testimony on December 29, 2009?

4 MR. IVEY: Yes.

5 JUDGE TAPIA: And would your answers be the  
6 same if asked today?

7 MR. IVEY: Yes.

8 JUDGE TAPIA: Are there any changes,  
9 modifications that you would like to make today?

10 MR. IVEY: Not on rebuttal, no.

11 JUDGE TAPIA: Okay. And would you like to  
12 enter into the record your testimony, your direct  
13 testimony filed on October 15 and your rebuttal  
14 testimony filed on December 29?

15 MR. IVEY: Yes.

16 JUDGE TAPIA: And I will go over the exhibits  
17 in a minute. Mr. Davis, are there any objections to  
18 enter the direct testimony of Mr. Ivey that was filed  
19 on October 15 and the rebuttal testimony filed on  
20 December 29?

21 MR. DAVIS: Yes, Your Honor, I have a series of  
22 particular objections which I can point specifically



1 in the testimony to where my objections are.

2 JUDGE TAPIA: Okay.

3 MR. DAVIS: On Mr. Ivey's first direct  
4 testimony that was filed, if you look at paragraph 3  
5 which is at the bottom of page 1, there is a series  
6 of hearsay statements that I would move to be  
7 stricken.

8 JUDGE TAPIA: Mr. Ivey, any response to that,  
9 to the objection of Mr. Davis, paragraph 3 where you  
10 state -- okay, actually, can you specifically direct  
11 me to the sentence, Mr. Davis?

12 MR. DAVIS: Yes, the first sentence, "Kelly  
13 says that she moved out in September and that Amber  
14 Throgmorton and two girls moved in," that statement  
15 is clearly hearsay because it is not a statement made  
16 by the witness here today.

17 The next sentence in that same  
18 paragraph is, "The landlord, Mark Leman, is not sure  
19 when they moved in and Kelly moved out." This  
20 statement is either hearsay or it is outside the  
21 knowledge of this witness, what Mark Leman knew.

22 The next sentence where it says, "He

1     said that," it appears that that's a statement to be  
2     made by Mark Leman, the landlord, that's clearly  
3     hearsay which should be stricken.

4                     And then the last sentence -- the last  
5     two sentences I do not have any objection to in that  
6     paragraph.

7             JUDGE TAPIA:   Okay, Mr. Ivey, what's your  
8     response to Mr. Davis' hearsay objection to those  
9     lines?

10            MR. IVEY:   Well, since these witnesses don't  
11     come here and I was told that hearsay carried the  
12     same amount of evidence with me as with him, I don't  
13     see why it is objectible.   I am just giving  
14     information I was given since I didn't live there.

15            JUDGE TAPIA:   Why is it you don't have your  
16     witnesses here, Mr. Ivey?   Why don't you have Ms.  
17     Kelly here or Mr. Leman?

18            MR. IVEY:   Because Kelly isn't about to come  
19     and Mr. Leman is very, very hard to get a hold of.  
20     All he would do is give me a letter signed and  
21     notarized, is the only thing he would give me.

22            JUDGE TAPIA:   The objection is sustained.

1           MR. DAVIS: Thank you, Judge. I have another  
2   objection in the same testimony to, if you move to  
3   page 2 where he states, "Now to sum up the facts," if  
4   you go to paragraph 3 of that, it states, "The  
5   landlord, Mark Leman, at 508 East Gift Avenue,  
6   Peoria, Illinois, says that I have never lived here,"  
7   that's a hearsay statement that I object to.

8           JUDGE TAPIA: Mr. Ivey, your response to  
9   Mr. Davis' objection, to the third line in page 2,  
10  same reason?

11          MR. IVEY: That's the same as before.

12          JUDGE TAPIA: Okay. Objection sustained.

13          MR. DAVIS: My next objection, Your Honor,  
14  involves paragraph 7 or numbered paragraph 7 under 3.  
15  It says, "Detective Gillson called Ameren's  
16  representative and told him that I have been a victim  
17  of ID theft in this case and in the past and that I  
18  lived at 1186 Upper Spring Bay Road, East Peoria, and  
19  never had lived at 508 East Gift Avenue in Peoria."  
20  This numbered paragraph 7 is a hearsay statement and  
21  also outside the personal knowledge of the witness  
22  here today, and I ask that it be stricken.

1 JUDGE TAPIA: Mr. Ivey, your response, if any?

2 MR. IVEY: I really don't understand. This is

3 a police report. Why would it be hearsay?

4 MR. DAVIS: Your Honor, may I respond?

5 JUDGE TAPIA: Yes.

6 MR. DAVIS: I am not objecting to the police

7 report. I am objecting to what is allegedly said by

8 these individuals by Mr. Gillson, not the document

9 itself which is the police report.

10 JUDGE TAPIA: Okay.

11 MR. IVEY: Well, basically, it don't make sense

12 to me because if that's the case, then everything

13 here is hearsay because, I mean, he says I called in

14 there and I didn't. So it is hearsay. He didn't

15 talk to me personally and document it. That's

16 hearsay.

17 JUDGE TAPIA: Objection sustained.

18 MR. DAVIS: Your Honor, moving on to he has an

19 underlying statement that says "Ameren's side" at the

20 bottom of page 2 that moves on to page 3. I will

21 just go one by one.

22 JUDGE TAPIA: Yes.

1           MR. DAVIS:   Number one states Ameren has a  
2   hearsay request for undocumented utilities from and  
3   undocumented person from an unknown phone number.  
4   This statement is outside the knowledge of the  
5   witness and it contains a legal conclusion that is  
6   improper and should be stricken, and I ask that it be  
7   stricken.

8           JUDGE TAPIA:   Mr. Ivey, your response, if any,  
9   your response to Mr. Davis in regards to statement  
10   one?

11          MR. IVEY:   He said I had -- repeat that.

12          JUDGE TAPIA:   You don't have personal knowledge  
13   of this information, basically, Mr. Davis?

14          MR. DAVIS:   Yes.

15          JUDGE TAPIA:   What is your response, if any?  
16   If you don't have a response, that's okay.

17          MR. IVEY:   My response is if he didn't get it  
18   from me, he has undocumented statements, according to  
19   what I was told by the Attorney General that all  
20   telephone contracts are followed up with a written  
21   contract to make them legal.   I called the Attorney  
22   General and asked him myself and he said that -- he

1     said otherwise it is just undocumented.  It isn't  
2     really legal in a court.

3             JUDGE TAPIA:  Okay, objection sustained.

4             MR. DAVIS:  Your Honor, for paragraphs 2, 3 and  
5     4 I renew my objection that it is outside his  
6     personal knowledge and it improperly contains legal  
7     conclusions and should be stricken.

8             JUDGE TAPIA:  Mr. Ivey, your response, if any?

9             MR. IVEY:  The same.  If I didn't give him  
10    information, then he don't have legal documents.

11            JUDGE TAPIA:  Okay.  Objection sustained.

12            MR. DAVIS:  Your Honor, those are all of my  
13    objections with regard to the first direct testimony.  
14    I do have some objections to the rebuttal testimony.

15            JUDGE TAPIA:  Otherwise, with those corrections  
16    you don't object to the admission of the direct  
17    testimony of October 15, aside from all the rulings?  
18    Are we finished?  In other words, are we finished  
19    with the direct testimony?

20            MR. DAVIS:  I have no objection to the entry of  
21    that direct testimony and the exhibit which is  
22    attached.

1 JUDGE TAPIA: Okay. Well, then hearing no  
2 objection, aside from my rulings, the testimony of  
3 Kerry Ivey filed on October 15, '09, with the  
4 corrections made by Mr. Ivey are entered into the  
5 record.

6 (Whereupon Kerry Ivey Direct  
7 Testimony was admitted into  
8 evidence.)

9 JUDGE TAPIA: Okay. Mr. Davis, your response  
10 to Mr. Ivey's rebuttal? Any objection?

11 MR. DAVIS: Your Honor, yes. In paragraph 2  
12 which would be under line 88 to 95, it states -- let  
13 me have a moment. It is a long paragraph.

14 JUDGE TAPIA: Could we go off the record for  
15 one second?

16 (Whereupon there was then had an  
17 off-the-record discussion.)

18 JUDGE TAPIA: Back on the record. Okay,  
19 Mr. Davis, do you have any objections to the rebuttal  
20 testimony of Mr. Ivey?

21 MR. DAVIS: Yes, Your Honor. On page 1 under  
22 what's titled paragraph line 88 to 95, if you review

1 the last three or four sentences, it states,  
2 "Detective Gillson said that I followed each step of  
3 the procedure properly. He said that he informed  
4 Mr. Fisher of proper procedure, too." These are  
5 hearsay statements which I would ask to be stricken.

6 JUDGE TAPIA: Mr. Ivey, a response, if any?  
7 You don't always have to have a response, but if you  
8 do, I will hear it.

9 MR. IVEY: Well, if it is hearsay evidence that  
10 states I followed the procedure properly, I guess it  
11 is hearsay evidence.

12 JUDGE TAPIA: Hearing no objection, the  
13 objection is sustained.

14 MR. DAVIS: Your Honor, my next objection, if  
15 you look at what's titled line 147 to 155, under that  
16 it states, "Ms. Throgmorton was told by the landlord  
17 that make sure that all the utilities in her name  
18 when she moved in. This was told to me by the  
19 landlord, Mark Leman."

20 Continuing onto the next sentence  
21 after that, "Mr. Leman said that Ms. Throgmorton  
22 assured him that in the first part of November that



1 the utilities were in her name."

2 My objection revolves around all  
3 sentences in that paragraph except for sentence  
4 three, as all hearsay statements.

5 JUDGE TAPIA: Mr. Ivey, what's your response,  
6 if any?

7 MR. IVEY: I really don't have a response to  
8 that.

9 JUDGE TAPIA: Hearing no objection, the  
10 objection is sustained.

11 MR. DAVIS: Your Honor, my final objection  
12 revolves around the paragraph that is at the bottom  
13 of page 2 of the rebuttal testimony under line 210 to  
14 217. If you look at what appears to be the beginning  
15 of sentence 2 or sentence 3, "I called (ICC) Patty  
16 Blue and told her that they planned to disconnect me  
17 on August 6, 2009. She said they cannot do that  
18 because ICC have ordered Ameren not to disconnect  
19 until the investigation is completed and not to worry  
20 about it."

21 Continuing a few sentences forward it  
22 states again, quoting Patty Blue, "I cannot believe

1     that Ameren defied my direct order. She said I will  
2     call you back in five minutes. She sounded very mad  
3     on this issue. She called back in five minutes and  
4     said Ameren will be out immediately to reconnect  
5     you."

6                     Skip one sentence and then it says,  
7     "And she said she will mail out the complete form  
8     immediately."

9                     All of these statements are hearsay  
10    and I would object to their entry and I would ask  
11    that they be stricken.

12            JUDGE TAPIA: Mr. Ivey, a response, if any, to  
13    Mr. Davis' objection?

14            MR. IVEY: Actually, that's just part of ICC  
15    record. I mean, they can pull that their selves,  
16    which I don't have access to. And I was told that I  
17    didn't need Patty Blue to come to testify to that.

18            JUDGE TAPIA: The objection is sustained.  
19    Anything else, Mr. Davis?

20            MR. DAVIS: Not on the rebuttal testimony, Your  
21    Honor.

22            JUDGE TAPIA: Okay. Then the rebuttal

1 testimony of Mr. Ivey is entered into the record and  
2 the hearsay statements were ruled upon and are  
3 stricken from the record.

4 (Whereupon Kerry Ivey Rebuttal  
5 Testimony was admitted into  
6 evidence.)

7 JUDGE TAPIA: Now we are ready to enter your  
8 exhibits, Mr. Ivey. We can go one by one.

9 MR. IVEY: Okay.

10 JUDGE TAPIA: If you can hand me your exhibit  
11 one by one, I can see what they are and identify it  
12 for the record what it is.

13 MR. IVEY: This is to show who was living at  
14 508 East Gift Street in Peoria. The landlord gave  
15 that to me. He said they left it there, so.

16 JUDGE TAPIA: Do you need anything to be  
17 confidential in this document?

18 MR. IVEY: No, that has nothing to do with me.

19 JUDGE TAPIA: Mr. Davis, any objection to  
20 Complainant's Exhibit A?

21 MR. DAVIS: Yes, Your Honor. First, pursuant  
22 to the scheduling order this was not produced in his

1 direct testimony, from your scheduling order of, I  
2 believe, September 29. In addition, looking at this  
3 exhibit, it is billing a person named Amber  
4 Throgmorton and it is produced by Comcast. Mr. Ivey  
5 does not have a witness here today from Comcast or  
6 Amber Throgmorton to testify as to the authenticity  
7 of this exhibit. And as he cannot testify personally  
8 to its authenticity, I would ask that it be stricken.

9 JUDGE TAPIA: Mr. Ivey, your response?

10 MR. IVEY: My response is that this is a legal  
11 bill sent out by a legal company to a legal address  
12 in Peoria and it isn't hearsay.

13 MR. DAVIS: I would just conclude, Your Honor,  
14 that the conclusion of what I was saying is that this  
15 document is hearsay. I didn't make that clear.

16 JUDGE TAPIA: Thank you. The objection is  
17 sustained and Complainant's Exhibit A is stricken.  
18 You can go to your second.

19 MR. IVEY: Same thing.

20 JUDGE TAPIA: Identify it for the record.

21 MR. IVEY: It's an exhibit for proving who  
22 lived at East Gift during that period.

1 JUDGE TAPIA: Mr. Davis, same objection?

2 MR. DAVIS: Renew my objection, Your Honor, for  
3 Exhibit B.

4 JUDGE TAPIA: Complainant Exhibit B is  
5 stricken. The objection is sustained.

6 Mr. Ivey, Exhibit C?

7 MR. IVEY: This is for the part of the  
8 testimony you said I had to prove where I lived. I  
9 lived at a certain address. These are my insurance  
10 cards.

11 JUDGE TAPIA: Do you want anything confidential  
12 on this card?

13 MR. IVEY: Really nothing, just my name and  
14 address on there.

15 JUDGE TAPIA: Okay. Mr. Davis, any objection  
16 to Exhibit C?

17 MR. DAVIS: My objection is that it didn't  
18 comply with your scheduling order of September 29,  
19 2009. It was not presented to me before today's  
20 hearing. It should therefore be stricken.

21 JUDGE TAPIA: Mr. Ivey, let me ask you, why is  
22 it that you did not produce these documents to

1     opposing counsel?

2             MR. IVEY:   This is all the stuff I sent in and  
3     they sent back to me, every bit of it.

4             JUDGE TAPIA:   You sent it to --

5             MR. IVEY:   At the last meeting we had, you said  
6     I had to send this to the clerk and have it put on.

7             JUDGE TAPIA:   You are not answering my  
8     question, Mr. Ivey.   Why is it that you didn't  
9     produce these documents to Mr. Davis, the opposing  
10    counsel?   Why didn't you send him a copy of it?   Just  
11    like you sent your direct testimony to the ICC, to  
12    myself and to Mr. Davis, why is it you did not send  
13    these to Mr. Davis?   Why is it a surprise to him  
14    today?

15            MR. IVEY:   I was told it was all going to come  
16    off the e-Docket.   Everything I sent in he would get  
17    from the e-Docket.

18            JUDGE TAPIA:   Let me ask you, did you produce  
19    your direct testimony to Mr. Davis?   Did you give him  
20    a copy of your direct testimony?

21            MR. IVEY:   I sent it to e-Docket.

22            MR. DAVIS:   I did receive a copy of both the

1 direct testimony and rebuttal testimony and any  
2 exhibits that were attached.

3 JUDGE TAPIA: So I am renewing my question.  
4 Why is it that you didn't produce, just like you  
5 produced your testimony, why is it that you didn't  
6 produce the exhibits to Mr. Davis?

7 MR. IVEY: Well, that's what I was told to do,  
8 just send it to e-Docket, and that's the way he would  
9 get the evidence. This stuff wasn't mailed to you  
10 directly. It was e-mailed to you. And everything I  
11 have sent in e-mail is getting kicked back to me  
12 saying I am not sending it right, I don't have the  
13 access code. What access code do I have to e-mail?

14 MR. DAVIS: To clarify for the record, I have  
15 received a copy via e-mail or mail, I don't remember  
16 exactly at the time, both the direct testimony and  
17 rebuttal testimony. The new exhibits that he has  
18 presented, A, B and C so far, I have not received in  
19 any form whatsoever and I have never -- I have never  
20 seen them or received them.

21 MR. IVEY: All I know is I was told if I sent  
22 it to the Clerk's office, they put it on e-Docket and

1     that's where he gets his and that's where I have been  
2     getting mine.

3             JUDGE TAPIA:   That's not proper service, Mr.  
4     Ivey.

5             MR. IVEY:    I haven't gotten anything but what I  
6     got off.

7             JUDGE TAPIA:   Well, let me ask you this and  
8     this is out of my curiosity.   Are these documents  
9     filed on e-Docket?

10            MR. IVEY:    That's the ones I all sent; they  
11    sent back to me.

12            JUDGE TAPIA:   They are not filed on e-Docket?

13            MR. IVEY:    No, they sent them all back to me,  
14    every one of them.   They said it had too much  
15    personal information.

16            JUDGE TAPIA:   Okay.

17            MR. IVEY:    That's what I don't understand about  
18    all this stuff is I am told to do this and I do it  
19    and they send it back.

20            JUDGE TAPIA:   Okay.   You know that little  
21    yellow booklet that you got, that you received from  
22    the Clerk's office?   That tells you exactly how to



1     proceed with a case.

2             MR. IVEY:    This?

3             JUDGE TAPIA:  No, no, there is a little

4     booklet.  It's a little booklet.  Well, at this point

5     in time we are not --

6             MR. IVEY:  I got a big, thick booklet that

7     showed a bunch of cases you could review on what

8     people -- other cases like, you know, something like

9     this one, but I didn't get no yellow booklet.  I just

10    got the white one and this thing.

11            JUDGE TAPIA:  We are going to have to speed

12    this up a little bit.  Why don't you go through your

13    exhibits and what you have produced to Mr. Davis, we

14    will go ahead and see if he has an objection.  But

15    whatever you have not produced to Mr. Davis, today is

16    not the day to present him with new evidence.  Today

17    is to enter all the evidence that's been filed and

18    ready to be entered into the evidence.  So if you can

19    go through your -- and I will go off the record to

20    give you some time to do that.  Whatever you have

21    produced to Mr. Davis, that's what we will go ahead

22    and enter into the record.

1           MR. IVEY:   What about the stuff that's been  
2   already in --

3           JUDGE TAPIA:   That's just the exhibits.

4           MR. IVEY:   I am losing my voice.   An affidavit  
5   that was sent to CILCO, to Ameren.

6           MR. DAVIS:   That's attached to your direct  
7   testimony so that's already been entered.

8           MR. IVEY:   That's already been entered.   Okay,  
9   that would be E.

10          MR. DAVIS:   I mean, I would just in summary,  
11   what's attached, the only exhibit --

12          JUDGE TAPIA:   But I have to identify them for  
13   the record, Mr. Davis.   If you would know exactly  
14   what they are numbered, I think that would help  
15   Mr. Ivey.   We will go off the record for a second.

16                               (Whereupon there was then had an  
17                               off-the-record discussion.)

18          JUDGE TAPIA:   Back on the record.   Mr. Ivey, I  
19   have in front of me Exhibit G, Exhibit F, J and K.  
20   Let's start with G.   Is your purpose today to enter  
21   Exhibit G into the record here today?

22          MR. IVEY:   Yes.

1 JUDGE TAPIA: Mr. Davis, any objection?

2 MR. DAVIS: No objection.

3 JUDGE TAPIA: Thank you. Hearing no objection,  
4 Exhibit G, Complainant's Exhibit G, is entered into  
5 the record.

6 (Whereupon Complainant's Exhibit  
7 G was marked for purposes of  
8 identification and admitted into  
9 evidence.)

10 JUDGE TAPIA: Exhibit F is a driver's license.  
11 Mr. Ivey, are you wanting to enter into the record  
12 your driver's license, a copy of your driver's  
13 license, Exhibit F?

14 MR. IVEY: Yes.

15 JUDGE TAPIA: Any objection, Mr. Davis?

16 MR. DAVIS: No objection.

17 JUDGE TAPIA: Hearing no objection, Exhibit F  
18 is entered into the record.

19 (Whereupon Complainant's Exhibit  
20 F was marked for purposes of  
21 identification and admitted into  
22 evidence.)

1 JUDGE TAPIA: Is there anything here that you  
2 want confidential?

3 MR. IVEY: Yeah, the numbers on it,  
4 identification numbers.

5 JUDGE TAPIA: Okay. And I will grant you a  
6 motion for leave to redact that information and file  
7 it with the Clerk so they can file it on e-Docket.  
8 This will be marked confidential.

9 Moving on to Exhibit J, is it your  
10 intention to enter into the record Exhibit J,  
11 Mr. Ivey?

12 MR. IVEY: Yes.

13 JUDGE TAPIA: Any objection, Mr. Davis?

14 MR. DAVIS: No objection.

15 JUDGE TAPIA: Hearing no objection, Exhibit J  
16 is entered into the record.

17 (Whereupon Complainant's Exhibit  
18 J was marked for purposes of  
19 identification and admitted into  
20 evidence.)

21 JUDGE TAPIA: Is there anything on this  
22 document that you want confidential?



1     September 29, 2009, as it was not disclosed to  
2     respondent's counsel.

3             JUDGE TAPIA:   Mr. Ivey, a response to  
4     Mr. Davis' objection that you didn't produce it?

5             MR. IVEY:    I have no response, no objection to  
6     that, that it really don't pertain to this case.

7             JUDGE TAPIA:   Okay, objection sustained.   So  
8     the objection is sustained.   The exhibit is not  
9     entered into the record.

10             Okay, are we ready to -- are you going  
11     to rest your case, Mr. Ivey?   We have entered your  
12     direct testimony.   We have entered the exhibits and I  
13     have asked you if there is any changes and, of  
14     course, the only thing that you have not told me is  
15     the amount in controversy.

16             Mr. Davis, for clarification, do you  
17     know the exact amount in controversy in this case?

18             MR. DAVIS:   My witness will testify when the  
19     direct testimony is submitted that the amount is  
20     \$955.15 and we would stipulate to that amount.

21             JUDGE TAPIA:   Okay.   One more time, Mr. Davis,  
22     955?

1           MR. DAVIS:   And 15 cents.

2           JUDGE TAPIA:   Mr. Ivey, does that amount sound  
3 accurate?

4           MR. IVEY:   That's the amount it was when I  
5 started this case, yes.   I just don't know what the  
6 interest is.   They keep adding 22, 28 dollars a  
7 month.

8           JUDGE TAPIA:   But you are not prepared to tell  
9 me what that is, what amount?

10          MR. DAVIS:   It changes each month.   That's what  
11 the problem is.   If you look in here, it started at 8  
12 something, it's gone up to 9 something, it keeps  
13 going up.   So they are adding interest and I can't  
14 keep adding it to.

15          JUDGE TAPIA:   Don't you have the last bill?

16          MR. IVEY:   At home.

17          JUDGE TAPIA:   Why didn't you bring it here  
18 today to know exactly how much -- then I am going to  
19 have to go with Mr. Davis' amount.

20          MR. IVEY:   That's what I don't understand about  
21 this whole deal, is I get another bill next month and  
22 it will be higher.   And do I bring it in again next

1 month and change the testimony again?

2 JUDGE TAPIA: Well, today is the evidentiary  
3 hearing and it was very unclear because your direct  
4 testimony said one amount and then the --

5 MR. IVEY: I know, because I keep changing it.  
6 They keep adding that interest and stuff and late  
7 charges. Each month they add this, and it varies  
8 because of the new amount. So it is new each month,  
9 the late charges. I have no way of figuring that.

10 JUDGE TAPIA: At the end of this hearing I will  
11 determine what amount is in controversy because I  
12 have to come up with an amount. There has to be a  
13 judgment amount.

14 MR. IVEY: So I would have to --

15 JUDGE TAPIA: We are going to determine this  
16 today, hopefully.

17 Do you rest? Is there anything else  
18 you want to say before we move to the respondent?

19 MR. IVEY: Yes, but I sit on the stand some of  
20 the stuff I was told to bring this time.

21 JUDGE TAPIA: Let me just explain it briefly.  
22 Today is not the day to submit new information, new



1 evidence. Whatever the respondent has not seen is  
2 not fair for him to be surprised today.

3 MR. IVEY: Yeah, I understand that.

4 JUDGE TAPIA: So it wasn't entered into the  
5 record. However, I will consider what was entered  
6 into the record plus your testimony, and that was  
7 done. Anything else in addition that you would like  
8 to say before we move it to --

9 MR. IVEY: So we are not into the part where  
10 what you told me last time over the phone where we  
11 had -- you said when you come you will be asked to  
12 prove your end of it, where you lived at and was it  
13 your bill.

14 JUDGE TAPIA: Well, you have done this in your  
15 direct testimony and your rebuttal testimony. You  
16 have done that. Today is entering it into the  
17 record.

18 MR. IVEY: That's what I didn't understand.

19 JUDGE TAPIA: Just filing it is not entering  
20 into the record. If it is here on the record with  
21 the court reporter, that's when we enter it into the  
22 record. You have already testified and you said

1     there is no modification with the exception of the  
2     ones you made earlier today, and I am going to  
3     consider those changes.

4             MR. IVEY:    Okay.

5             JUDGE TAPIA:   Okay.   The complainant has rested  
6     his case.   Mr. Davis, you can present your case.

7             MR. DAVIS:   Your Honor, I have some cross  
8     examination.

9             JUDGE TAPIA:   Oh, of course.   I apologize.  
10    Mr. Davis, any cross for Mr. Ivey?

11            MR. DAVIS:   Yes, Your Honor.

12                           CROSS EXAMINATION

13            BY MR. DAVIS:

14            Q.   Mr. Ivey, isn't it true that your  
15    daughter -- you have a daughter named Kelly Ivey?

16            A.   Yes.

17            Q.   Isn't it true that she lived in an address  
18    in Peoria that is 508 East Gift Avenue, Peoria,  
19    Illinois?

20            A.   Yes.

21            Q.   Isn't it true that she lived at that  
22    address in a time period sometime in year 2007 and

1     then continuing through 2008?

2             A.    I think she might have lived there in 2006,  
3     too.

4             Q.    Okay.   In addition.

5             A.    Yes.

6             Q.    But she did live there the beginning of  
7     2008?

8             A.    Yeah, she lived there a couple years.

9             Q.    Isn't it true that you have been a customer  
10    of Ameren at your address at Upper Spring Bay in East  
11    Peoria for some time?

12            A.    Yes.

13            Q.    Isn't it true that your daughter Kelly Ivey  
14    her utility service at the East Gift Avenue address  
15    was shut off in April of 2008?

16            A.    Yes.

17            Q.    Isn't it true that you had discussions with  
18    your daughter Kelly Ivey about placing the electric  
19    service at the Gift Avenue address in your name?

20            A.    Yes.

21            Q.    I would direct your attention to the police  
22    report which you produced as an exhibit to your

1 direct testimony, page 2. Do you have a copy  
2 available in front of you?

3 A. Police testimony?

4 Q. This is your testimony which I am just  
5 giving these details methodically?

6 A. The police report, you mean?

7 Q. Yes.

8 A. Page 2, yeah.

9 Q. Yes. And I am being methodical on how I am  
10 describing this for the purposes of the record, at  
11 the end of -- this is a police report which you would  
12 have produced with the Woodford County Sheriff's  
13 Department, is that correct?

14 A. Yes.

15 Q. Is it correct that this was a report  
16 produced by Detective Robert Gillson based upon  
17 statements that you made to him?

18 A. Yeah, over the phone, yes.

19 Q. So you made statements regarding a  
20 situation which you thought was problematic and he  
21 produced a report based on what you said and this is  
22 the report that he produced, is that correct?

1           A.    Yeah, basically, yes.

2           Q.    Now, have you had a chance to thoroughly  
3 review this report?

4           A.    Not totally.  I have just gone over  
5 basically on --

6           Q.    But you produced it as an exhibit today so  
7 you do know the contents of this police report?

8           A.    Yeah, basically.

9           Q.    And this police report is true and accurate  
10 regarding what you presented that day?

11          A.    I think so.  I have to reread it.  I didn't  
12 memorize everything.  Reread everything that's on it.

13          Q.    So is the answer yes, that is a fair  
14 representation of what you reported that day to  
15 Mr. Gillson?

16          A.    Yes, I think so.

17          Q.    Now --

18          A.    I haven't gone over it in detail.

19          Q.    Now, am I reading it correctly that on page  
20 2 of the report, paragraph 1, it states -- and this  
21 is in reference to you, statements you made -- "He  
22 stated that back in the beginning of 2008 that Kelly

1     had used his information to obtain AmerenCILCO  
2     service at the residence. He stated that he spoke  
3     with Kelly about this and that she agreed to cancel  
4     the service and place it in her name." Is that what  
5     it says on this police report?

6           A. I don't know where you are at.

7           Q. It's the last two sentences of paragraph 1  
8     where I am indicating with my finger.

9           A. Fair enough. "He stated that back in the  
10    beginning of 2008 that Kelly used his information to  
11    obtain CILCO service at the residence."

12          Q. And then the last sentence --

13          A. That's what I told you, illegally.

14          Q. I just asked you if that's what it said  
15    there and when it says "he," that's referring to  
16    statements that you made and when it says "Kelly," it  
17    is referring to your daughter Kelly Ivey, and when it  
18    states "residence," it's referring to the Gift Avenue  
19    residence, is that true?

20          A. Yes, that states that.

21          Q. Isn't it true that in your direct testimony  
22    you identify that you had a conversation with your

1 daughter, and your wife was present, that you would  
2 agree to put the service in your name at Gift Avenue?

3 A. That's only part of what was said in that  
4 statement. I said that Kelly called us, we was at  
5 WalMart that night, and asked us if we would put the  
6 utilities at Gift in our name. I asked my wife and  
7 she said, well, yes, but we are going to have  
8 stipulations on it.

9 Q. Okay. Well, I have further questions then.  
10 Later you -- strike that.

11 At any point after that -- this  
12 conversation you say took place, this was about in  
13 April 2008, is that correct?

14 A. April 6, I think it was.

15 Q. Okay. After that point at any time in 2008  
16 did you contact Ameren and ask them to disconnect the  
17 service in your name at Gift Avenue?

18 A. No, it wouldn't be in my name now.

19 Q. Did you ever file a police report against  
20 your daughter alleging identity theft for putting the  
21 service in your name at Gift Avenue or were the only  
22 reports against a person named Amber Throgmorton?

1           A.   Basically it was for both people because  
2   the bill was split between the time she left and the  
3   time that this other girl took over the residency.  
4   It went to November, from what I was told by Ameren  
5   from -- it was an accumulation of past bills, I  
6   guess.

7           Q.   So is it correct that -- you say there is a  
8   division of time.  So this Kelly Ivey and Amber  
9   Throgmorton both lived at Gift Avenue at some point?

10          A.   Yes.

11          Q.   And it was in 2008 and at some point Kelly,  
12   your daughter, moved out of the Gift Avenue address  
13   and this Amber Throgmorton moved in, is that correct?

14          A.   Yes.

15          Q.   So at some point you are saying the service  
16   should have been shut off in your name for Kelly and  
17   that it should have been started in this name of  
18   Amber Throgmorton?

19          A.   It never should have been in my name in the  
20   first place.  That's what I told the cop, the police  
21   officer.  I told him, I said, "I never called Ameren  
22   to put it in my name at all.  We just discussed doing



1     it."    She didn't like the stipulations we had on  
2     there.   If we were going to do it, she would have to  
3     agree with Ameren that if she didn't pay that bill on  
4     time, that Ameren would cut it off that month, and  
5     she wouldn't agree to that.

6           Q.    So after you discussed putting the bill in  
7     your name, you never contacted Ameren to disconnect  
8     it?

9           A.    No, I did not.   I didn't put it in my name.  
10    What do you mean after I put it in my name?   I didn't  
11    put it in my name.   I just stated that.   You said  
12    after I put it in my name.   I never put it in my  
13    name.

14          Q.    Is it true that you -- isn't it true that  
15    you contacted Ameren in June of 2009 regarding the  
16    bill which had been charged to you for the East Gift  
17    Avenue address?

18          A.    Yes.

19          Q.    And at this time you spoke with Ameren  
20    regarding this discussion that you had with your  
21    daughter regarding putting the service in your name?

22          A.    Yes.   You mean --

1           MR. DAVIS: I have no further questions, Your  
2 Honor.

3           MR. IVEY: You mean the ID theft guy, that's  
4 who you are talking about that I talked to, the  
5 gentleman that handles the investigation?

6           MR. DAVIS: You mean the gentleman at Ameren  
7 who you spoke to?

8           MR. IVEY: Yes.

9           MR. DAVIS: Yes. That's who you talked to.

10          MR. IVEY: But we talked to Ameren before that,  
11 too.

12          MR. DAVIS: You talked to Ameren before that.

13          MR. IVEY: Yes.

14          MR. DAVIS: But in August or June of 2009 you  
15 did speak with John at Ameren about this situation  
16 with -- your discussion with your daughter regarding  
17 putting the service in your name, this was discussed?

18          MR. IVEY: Yes.

19          MR. DAVIS: I have no further questions.

20          JUDGE TAPIA: Thank you, Mr. Davis. Anything  
21 you wanted to clarify in particular to the questions  
22 that Mr. Davis asked?

1           MR. IVEY: Yes. As I have stated in my reports  
2 all along, I have never contacted Ameren and had that  
3 Gift Avenue put in my name. Like I said in my  
4 report, we talked about having it, but she didn't  
5 like the stipulation and said that she had other  
6 options she had to check in first. She never  
7 contacted us back. And when I contacted her back and  
8 asked her if her electricity was okay, she said it is  
9 all paid up, it was in her name.

10          JUDGE TAPIA: Okay, anything else for recross  
11 for what he just said? Any questions, Mr. Davis?

12          MR. DAVIS: I have nothing further.

13          JUDGE TAPIA: Okay, thank you. Then Mr. Ivey  
14 rests.

15                   Now for you, Mr. Davis, if you would  
16 like to present your first witness.

17          MR. DAVIS: Can I make a short opening  
18 statement?

19          JUDGE TAPIA: Absolutely.

20          MR. DAVIS: I would like to just give a  
21 thumbnail sketch of what the case is here and what  
22 the testimony will show through the testimony and the

1 exhibits that we presented.

2                   Mr. Ivey has been a long term customer  
3 of Ameren. His address where he has lived for some  
4 time has been in East Peoria and it's an Upper Spring  
5 Bay Road address in East Peoria. As the evidence  
6 reflects, he has a daughter named Kelly Ivey and  
7 Kelly Ivey had lived at this Gift Avenue address in  
8 Peoria for some time. As he stated in his testimony,  
9 starting potentially in 2006 but definitely through  
10 probably mid-2008 she lived in this address. As the  
11 testimony will show, this property at Gift Avenue had  
12 a history of the service being disconnected for  
13 non-payment and other issues but eventually -- and it  
14 was in many different names, including Kelly Ivey,  
15 preceding April 2008.

16                   But in April 2008 the City of Peoria  
17 contacted Ameren and contacted the landlord for this  
18 property at Gift Avenue and stated it's city code  
19 that there has to be electric service if someone is  
20 living in the property.

21                   Not too long after that Ameren did  
22 receive a phone call regarding reconnecting the

1 service. The person identified them self as Kerry  
2 Ivey, presented social security number, an address  
3 and other identifying information that did not raise  
4 any red flags with Ameren whatsoever that they were  
5 not dealing with Kerry Ivey.

6 In Ameren's re-review of their file  
7 and the recordings and everything, it is potential  
8 that with the follow-up calls, in addition to this  
9 call in the middle of April 2008, it is potential  
10 that this could have been female. The person was not  
11 in front of one of the representatives from Ameren so  
12 we don't know for sure if it was male or female.  
13 And, in addition, it didn't raise any red flags with  
14 the Ameren customer service representative because  
15 Kerry is a male and a female name and all of the  
16 proper identifying information was there, nothing  
17 fishy was going on, so the service was placed in the  
18 name of Kelly Ivey.

19 Now, the evidence does show that  
20 Mr. Ivey had several conversations with his daughter  
21 Kelly Ivey about placing the service in his name.  
22 There was the conversation that's noted in his direct

1 testimony. There is a conversation that he had with  
2 the ID theft investigator at Ameren in June of 2009,  
3 and then there are statements made in the police  
4 report that I pointed out in the cross examination  
5 where he had given his daughter permission to put the  
6 service in his name.

7                   In short, service was provided to the  
8 Gift Avenue property. It was not paid and eventually  
9 the service was reconnected to a new customer named  
10 Amber Throgmorton. Ameren did not act  
11 inappropriately in any way in this case. They  
12 followed proper procedures, and the burden in this  
13 case is on Mr. Ivey to show that someone else, at  
14 least from what I can tell what his argument is, is  
15 that someone else improperly put service in his name.  
16 The burden is on him to prove that here today. He  
17 hasn't produced his daughter Kelly Ivey as a witness.  
18 He hasn't produced this landlord that owns the Gift  
19 Avenue property to say who was in the property and  
20 when. He hasn't produced any other witnesses  
21 whatsoever to substantiate his story that this  
22 agreement didn't come to fruition or that he didn't

1     agree with her.   Everything in the testimony and in  
2     the documents produced leave us the conclusion that  
3     he did give his daughter permission to put this  
4     service in his name at Gift Avenue.

5                     Ameren has made best efforts in this  
6     case on multiple occasions to settle this account,  
7     including many times this last year and this morning  
8     before the case.   We have made best efforts to comply  
9     with all Commission rules and we have complied with  
10    all Commission rules and have dealt with this  
11    customer fairly, just like we do with every other  
12    customer.

13                    So we would ask that the complaint be  
14    denied, and we believe that the evidence will show  
15    that Mr. Ivey has not met his burden today in this  
16    case.

17                    JUDGE TAPIA:   Thank you, Mr. Davis.   Call your  
18    first witness.

19                    MR. DAVIS:   My first witness is Carl Fisher.

20                    JUDGE TAPIA:   Mr. Fisher, if you can stand and  
21    raise your right hand.

22                                    (Whereupon the witness was duly

1                               sworn by Judge Tapia.)

2               JUDGE TAPIA:   Whenever you are comfortable,  
3   Mr. Davis.

4                               CARL FISHER

5   called as a witness on behalf of AmerenCILCO, having  
6   been first duly sworn, was examined and testified as  
7   follows:

8                               DIRECT EXAMINATION

9               BY MR. DAVIS:

10           Q.   For the record please note that I am  
11   handing to the witness Carl Fisher, to the  
12   Administrative Law Judge Lisa Tapia, to the  
13   respondent Kerry Ivey, multiple copies of what I have  
14   previously labeled as Exhibit 1, AmerenCILCO Exhibit  
15   1.0, AmerenCILCO Exhibit 1.1, 1.2, 1.3 and 1.4.

16                   Do you recognize, Mr. Fisher, what I  
17   am handing you here today?

18           A.   Yes.

19           Q.   Is this your prefiled direct testimony with  
20   attached Exhibits 1.1 to 1.4 which were filed with  
21   the Illinois Commerce Commission on November 18,  
22   2009?



1           A.    Yes, it is.

2           Q.    Would your answers and your testimony be  
3   the same today as they were when you filed this  
4   testify on November 18, 2009?

5           A.    Yes.

6           Q.    Are there any changes, additions or  
7   modifications from that testimony that you wish to  
8   make today?

9           A.    No.

10          Q.    Do you wish to add any testimony today  
11   regarding the manner in which Ameren raises red flags  
12   if a customer calls if anything sounds not to be  
13   correct or in the event of the sex of the person who  
14   is calling and the account holder?  Can you please  
15   comment on that?

16          A.    Sure.  In our system we have no way or  
17   space to record whether a customer is male or female.  
18   I have reviewed the call that was placed initially to  
19   place service in the name.  The call did not raise  
20   any red flags that would cause a customer service  
21   representative to ask for more information.  Should a  
22   customer or should a caller presenting themselves as

1 a customer present anything that would be  
2 questionable, for example, maybe they give a social  
3 security number incorrect or a piece of information  
4 just sounds fishy, our representatives do have  
5 authority to ask for more information before we grant  
6 service. At that time the procedure would be for the  
7 representative to ask the caller to fax in two forms  
8 of ID. Sometimes we would request notarization if  
9 there is a question as to whether the IDs were  
10 compromised.

11 When the initial call was placed on  
12 this, there was nothing that would have caused  
13 concern for the representative.

14 Q. In addition to the statements that you just  
15 made on the record here today, along with the  
16 prefilled direct testimony which you have a copy of in  
17 front of you and I presented to the rest of the  
18 relevant parties in this room, are you requesting  
19 that that, along with Exhibits 1.1 to 1.4, be a part  
20 of the record here today, 09-0385?

21 A. Yes.

22 MR. DAVIS: Your Honor, I would move to admit

1 the prefiled testimony and the attached exhibits that  
2 I have noted as 1.1 to 1.4 as evidence here today.

3 JUDGE TAPIA: Thank you, Mr. Davis. Mr. Ivey,  
4 is there any objection to the entering into the  
5 record the direct testimony of Carl Fisher, Ameren  
6 Exhibit 1.0, also the attached Exhibits 1.1, 1.2, 1.3  
7 and 1.4?

8 MR. IVEY: Other than questions on  
9 clarification of some of his statements.

10 JUDGE TAPIA: Well, so do you have an objection  
11 to the entry of the direct testimony?

12 MR. IVEY: Yes.

13 JUDGE TAPIA: What is your objection?

14 MR. IVEY: I just wanted some stuff clarified  
15 on what he meant by what he said.

16 JUDGE TAPIA: Well, you have to have an  
17 objection. It has to be hearsay, it has to be --

18 MR. IVEY: I object to what they say they got  
19 contact information and social security number.

20 JUDGE TAPIA: What's your basis of your  
21 objection?

22 MR. IVEY: My objection is the counsel here

1     stated earlier that they had numerous types of  
2     information given to them that they went on. And if  
3     they were just going on what he said here, contact  
4     information and social security number, my name and  
5     social security number, right away, if they had my  
6     address, the bill wouldn't be going to Gift Street,  
7     it would be going to my address. So if they had my  
8     contact information for telephone, why didn't they  
9     call me on the telephone? They didn't call me on the  
10    telephone. There were calling her supposedly, they  
11    said.

12                   So they didn't have all the contact  
13    information. They had part of mine and part of hers.  
14    So that should have raised a flag; it didn't match up  
15    with anything in their file already.

16           JUDGE TAPIA: Okay. The objection is  
17    sustained. The direct testimony of Carl Fisher, 1.0  
18    and 1.1 through 1.4 is entered into the record.

19           MR. DAVIS: Your Honor, you stated that the  
20    objection is sustained?

21           JUDGE TAPIA: I am sorry, objection is  
22    overruled. The testimony of Mr. Fisher is entered

1       into the record.

2                               (Whereupon Ameren Exhibits 1.0,  
3                               1.1, 1.2, 1.3 and 1.4 were  
4                               admitted into evidence.)

5               JUDGE TAPIA:   For clarification, Mr. Ivey, you  
6       will have an opportunity to cross-examine Mr. Fisher  
7       of those questions you just posed, but I overruled --

8               MR. IVEY:   You mean to clarify my questions?

9               JUDGE TAPIA:   Yes, that's the time when you can  
10      cross-examine Mr. Fisher.   But as far as your  
11      objection, it wasn't an acceptable objection so I  
12      entered it into the record.

13                       Okay, you may proceed, Mr. Davis.

14              MR. DAVIS:   I do want to make a closing  
15      statement today, but other than the prefiled  
16      testimony and the testimony which he produced today  
17      here in court, I have no further evidence to produce.

18              JUDGE TAPIA:   Okay, Mr. Ivey, now is your  
19      opportunity to cross-examine Mr. Fisher.

20              MR. IVEY:   Okay.

21

22

1 CROSS EXAMINATION

2 BY MR. IVEY:

3 Q. In your statement --

4 JUDGE TAPIA: You have to refer to the page.

5 Q. On line 131 to line 134?

6 A. Okay.

7 Q. You said during the call Mr. Ivey's contact  
8 information, his social security number were given to  
9 Ameren. What contact information other than the  
10 social security and my name was given to you?

11 A. I did review the call that was placed to  
12 connect the service. Information presented included  
13 the name Kerry Ivey, social security number. The  
14 caller stated that there was current service at 1186  
15 Upper Spring Bay Road in East Peoria. The  
16 representative asked if that service was going to be  
17 disconnected. The caller stated, no, that service  
18 was to remain on, that the Gift Avenue address would  
19 be a secondary service.

20 Ameren's customer service  
21 representative asked where the bills were to be  
22 mailed to. The caller stated that each address was

1 to receive their own bills independently. 1186 Upper  
2 Spring Bay Road would be there. 508 East Gift Avenue  
3 would go there.

4 Q. And that didn't seem funny to you? I mean,  
5 is that common?

6 A. Yes, that is common. We have landlords.  
7 We have people who own multiple properties that they  
8 are trying to sell. It is not unusual for an  
9 individual to have more than one service in their  
10 name.

11 Q. What I don't understand, on all this stuff  
12 you said right here, contact information and giving  
13 them service, I got my service at 1186 Upper Spring  
14 Bay Road. I do not --

15 JUDGE TAPIA: Mr. Ivey, you have to pose  
16 questions.

17 Q. Is that a discontinued process here?

18 MR. DAVIS: I would ask that he clarify that  
19 question, Your Honor.

20 JUDGE TAPIA: Can you restate the question,  
21 Mr. Ivey?

22 Q. Yes. Is this the way you get service now

1     like you say here?

2             JUDGE TAPIA:   And refer to lines, please.

3             Q.    By giving this contact information between  
4    131 and 134, that is a new process of how you give  
5    service to people?

6             A.    That is correct.

7             Q.    That is --

8             A.    When CILCO was its own entity, that was  
9    before I worked for the company, but I do believe  
10   that individuals had to go to the CILCO office,  
11   present their information to obtain service.

12            Q.    Yeah, that's the only way I knew they had,  
13   that you could get service.

14            MR. DAVIS:   I would object to that statement,  
15   Your Honor.   It's irrelevant.   It is not a question.  
16   I ask that it be stricken.

17            MR. IVEY:   It isn't really irrelevant.   It is  
18   showing they have got a new process that I don't know  
19   about.

20            JUDGE TAPIA:   Mr. Ivey, I have to rule on that.  
21   It is inappropriate to state statements.   You will  
22   have that opportunity when you do your closing



1 argument, to wrap it all together. But as far as  
2 right now and Mr. Fisher, you need to ask him  
3 questions. Everything has to be posed as a question.  
4 So you can go on to your next question.

5 Q. Okay. It says on line 141 down to 144.

6 JUDGE TAPIA: What page?

7 Q. Mr. Ivey's direct testimony filed here with  
8 the court indicates that he gave his daughter Kelly  
9 Ivey permission to place it in service, to place  
10 electric service at Gift Avenue. You say it  
11 indicates?

12 JUDGE TAPIA: What's your question, Mr. Ivey?

13 Q. By indicating, meaning that you are  
14 assuming it by what information you got; you don't  
15 know for sure I gave her permission to put it in my  
16 name and you are stating that she put it in there and  
17 it wasn't me but you were saying earlier that it was  
18 me that called in; you didn't know it was a woman,  
19 like you stated right here it is her?

20 MR. DAVIS: Your Honor, I am a little lost.

21 MR. IVEY: He is stating right here that I gave  
22 her permission to put it in. That means that she

1     called; he knows that she is the one that called.

2     Earlier you said you didn't.

3             JUDGE TAPIA:   Mr. Ivey, instead of compound  
4     questions, we have to follow you and the record needs  
5     to be clear.  You need to pose one question at a  
6     time.  So think about what your question is going to  
7     be and once Mr. Fisher answers the question, you can  
8     move on to your next question but instead of compound  
9     questions.

10            BY MR. IVEY:

11            Q.    Okay.  You say it indicates Mr. Ivey gave  
12     Kelly permission to put it in her name which means --  
13     you answered it, does this mean that you actually  
14     talked to Kelly?

15            A.    No, that is in reference to the testimony  
16     that you had filed previously.

17            Q.    Because this says here that -- it says that  
18     Kelly put it -- put that in there.  That's the  
19     statement right here.  So if Kelly put it in there,  
20     you must have talked to Kelly, is that true or not?

21            A.    I did not speak to Kelly.  These lines  
22     refer to your direct testimony.  Line 141 reads

1 AmerenCILCO Exhibit 1.4 and Mr. Ivey's direct  
2 testimony filed herein on October 15, 2009, indicates  
3 that Mr. Ivey gave his daughter Kelly Ivey permission  
4 to place the electric service at 508 Gift Avenue,  
5 Peoria, Illinois, in his name.

6 Q. My direct testimony does not say that  
7 anyplace in there. That's an assumption you made.

8 MR. DAVIS: Your Honor, I would move to strike  
9 all of the statements that are not in the form of a  
10 question.

11 Q. Is it true that --

12 JUDGE TAPIA: Mr. Ivey, I have to rule before  
13 you move on. The objection is sustained.

14 Mr. Ivey, you need to pose questions.  
15 You will have your opportunity to wrap it altogether  
16 and sum it up at your closing argument. Just pose  
17 questions and have Mr. Fisher answer your question.

18 BY MR. IVEY:

19 Q. Well, by this statement here are you  
20 presuming that I gave her permission to put that in  
21 her name?

22 A. I am referring to your direct testimony.

1 JUDGE TAPIA: Any further questions for  
2 Mr. Fisher, Mr. Ivey?

3 Q. Okay. Line 115 and 116.

4 JUDGE TAPIA: For reference, what page is that?

5 Q. Your answer said that electric service was  
6 never disconnected at 508 East Gift, Illinois, while  
7 this property was in Mr. Ivey's name. You stated  
8 this. Do you know this property for a fact was in  
9 Mr. Ivey's name?

10 A. Service for that property was in Mr. Ivey's  
11 name, correct.

12 Q. And do you know for sure that service that  
13 you say was in Mr. Ivey's name was put there by  
14 Mr. Ivey? Is there no doubt in your mind that  
15 service was put there by Mr. Ivey?

16 MR. DAVIS: Your Honor, this has been asked and  
17 answered, I believe, but --

18 JUDGE TAPIA: Objection, Mr. Davis?

19 MR. DAVIS: My objection is that this question  
20 has been asked and answered. That's my objection.

21 JUDGE TAPIA: I will overrule the objection. I  
22 will allow Mr. Fisher to answer the question.

1           A.    The testimony filed is not so much as to  
2   whether Mr. Ivey himself put the service into his  
3   name but whether he gave permission for the service  
4   to be put in his name, and that is shown through his  
5   direct testimony as well as evidence presented.

6           MR. IVEY:  I object to that because my  
7   testimony doesn't show it.

8           JUDGE TAPIA:  You can sum that up at the end.  
9   Any other questions for Mr. Fisher?  There is no  
10  rush, Mr. Ivey.  You can review and see what you need  
11  to ask Mr. Fisher.

12          BY MR. IVEY:

13          Q.    On 218 and 219 lines, they go down to 220  
14  of your answer, to your knowledge did Ameren ever  
15  refuse to allow Mr. Ivey to speak to a supervisor,  
16  and your answer was not to my knowledge.  Are you a  
17  supervisor?

18          A.    No, I am not.

19          Q.    Then I don't quite understand that  
20  question.  I assumed it was addressed to you as a  
21  supervisor.

22          MR. DAVIS:  I would object to that statement.

1       It is not a question, Your Honor.

2               JUDGE TAPIA:  Objection is sustained.  You have  
3       to ask a question, Mr. Ivey.  It has to be posed as a  
4       question.

5               MR. IVEY:  Well, since he is not a supervisor,  
6       the question that was asked isn't pertaining because  
7       it was him I was talking to.

8               MR. DAVIS:  I would renew my objection.

9               JUDGE TAPIA:  Objection is sustained.  You have  
10      to pose questions to Mr. Fisher.

11              BY MR. IVEY:

12              Q.  Well, my question to Mr. Fisher was did you  
13      ever not return my phone calls?  I've called on this  
14      matter.

15              A.  Not to my knowledge.

16              MR. IVEY:  I object to his answer to it because  
17      I made a lot of phone calls and I don't get any --

18              JUDGE TAPIA:  Mr. Ivey, you asked the question  
19      and he answered the question.

20              MR. IVEY:  I object to his answer, but that's  
21      okay.

22              MR. DAVIS:  I move to strike that statement.

1 JUDGE TAPIA: Objection is sustained.

2 Mr. Ivey, if you don't want to hear an answer, then

3 don't ask the question.

4 MR. IVEY: I just objected to his answer to it.

5 JUDGE TAPIA: You can't. If you ask the

6 question, you have to allow him to answer it. You

7 may not like the answer, but he has to be able to

8 answer it. And if you don't want to hear the answer,

9 then don't ask that question.

10 MR. IVEY: That's okay. I didn't understand.

11 I wanted to make sure he wasn't the supervisor we was

12 talking about.

13 JUDGE TAPIA: Okay, and I think he answered

14 that question.

15 BY MR. IVEY:

16 Q. Okay. Now, I want to get this clarified.

17 We clarified it at the last meeting, but I want to

18 get your answer to this. Line 180 to 182, this is

19 just for the record, Ameren, they asked if there was

20 ever a new meter affixed to the house and the answer

21 was Ameren's electric meter with an AMR module was

22 installed in July 6, 2009, was affixed to the service

1 premises. Is that true?

2 A. That is true.

3 Q. Okay. And to your knowledge is the

4 electric meter functional and properly functioning

5 properly?

6 A. Yes.

7 Q. There was no complaints, right? That's

8 what you mean by saying yes, there was no complaints

9 on it?

10 A. There were no indications on the account of

11 anybody requesting a meter test or indicating that

12 the meter was operating improperly, no.

13 MR. IVEY: That's all.

14 JUDGE TAPIA: Thank you. Mr. Davis, any

15 redirect?

16 MR. DAVIS: Yes, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. DAVIS:

19 Q. Mr. Fisher, you made statements regarding

20 the request for service at the Gift Avenue address

21 made to Ameren, is that correct? You made statements

22 regarding that?



1           A.    Correct.

2           Q.    And you made statements regarding accepting  
3   new service requests via phone or in person.  To your  
4   knowledge is this a customary way of accepting new  
5   customers and/or business, is over the phone?

6           A.    We always accept them over the phone,  
7   correct.

8           Q.    And did you follow all safety procedures to  
9   assure that the correct person identifying themselves  
10  was presenting them self to be Kerry Ivey in this  
11  situation when the call came in, in April of 2008?

12          A.    Yes.

13          Q.    And is it true that you honestly had no  
14  idea whether the person on the phone would have been  
15  male or female?

16          A.    True.

17          Q.    But following all safety procedures, with  
18  the social security number presented, address of a  
19  current customer and all the information presented,  
20  no red flags were raised?

21          A.    There was nothing of concern.

22          MR. DAVIS:  I have no further questions, Your

1 Honor.

2 JUDGE TAPIA: Thank you, Mr. Davis. Any  
3 recross pertaining to what Mr. Davis just asked for  
4 Mr. Fisher.

5 RECROSS EXAMINATION

6 BY MR. IVEY:

7 Q. You stated earlier to me when I asked you a  
8 question about the same problem that a lot of  
9 landlords have multiple names and stuff on properties  
10 and bill separately. Is that common with  
11 non-landlords?

12 MR. DAVIS: Your Honor, this is outside the  
13 scope of my redirect.

14 JUDGE TAPIA: Objection?

15 MR. DAVIS: I would ask that it be stricken.

16 JUDGE TAPIA: It is stricken, objection  
17 sustained. Mr. Ivey, you can only focus on the last  
18 few questions that Mr. Davis just asked Mr. Fisher.  
19 If it is outside that scope, then it would be  
20 improper.

21 MR. IVEY: Oh, okay.

22 JUDGE TAPIA: Do you have any questions

1     pertaining to what Mr. Davis just asked Mr. Fisher?

2             BY MR. IVEY:

3             Q.    You said that no red flags come up when you  
4     talked to the person.  Now, I still question how do  
5     you know who you are talking to?  Is there some way  
6     of distinguishing definitely that the person you are  
7     talking to is the person who is getting the service?  
8     You say there is no red flag.  Just a name and  
9     address, social security number, that's all they  
10    require by when you ask this question?  I mean, when  
11    you ask for service?  You don't say can you give me  
12    proof of who you are?

13            A.    When we receive a request for secondary  
14    service from an existing customer, the customer has  
15    already been established in our system.  They have  
16    already gone through basically a soft credit score  
17    where we have checked the social security number,  
18    made sure it verifies to that individual.  As an  
19    existing customer we do not repeat that process.  So  
20    the information was presented that would be  
21    information that the individual would have as  
22    personal information, i.e., a social security number,

1     presented an address, presented their name. Unless,  
2     as I said before, unless the individual just was  
3     acting really strange on the phone, there would be  
4     nothing to raise a red flag on that, no.

5           Q.   Well, you said that when an existing  
6     customer -- how do you know it's the existing  
7     customer just because he gives you his name and  
8     stuff? That doesn't prove it is him on the phone.  
9     Identity theft happens all the time where people have  
10    all this information and if that's all it took --

11           MR. DAVIS: Your Honor, I would ask that he ask  
12    a question here. I move to strike those statements.

13           JUDGE TAPIA: Mr. Ivey?

14           MR. IVEY: I am trying to get him to say one  
15    way or the other.

16           JUDGE TAPIA: You need to ask a question,  
17    not -- objection is sustained.

18           BY MR. IVEY:

19           Q.   So you definitely knew that it was Mr. Ivey  
20    that was on the phone talking to you that day as you  
21    state here?

22           A.   To the best of our customer service

1       representative's knowledge, they were speaking to  
2       Kerry Ivey.

3               JUDGE TAPIA:   No further questions, Mr. Ivey?

4               MR. IVEY:    No.

5               JUDGE TAPIA:   Any -- well, we are going to end  
6       this.   Mr. Davis, any other witnesses?

7               MR. DAVIS:   I have no other evidence to  
8       present.

9               JUDGE TAPIA:   Okay.   And you rest, Mr. Davis?

10              MR. DAVIS:   I do.

11              JUDGE TAPIA:   Now we are at the closing stage.  
12       Mr. Ivey, I am going to allow you to make a closing  
13       argument.   Then Mr. Davis is going to make his  
14       closing argument.   Because you have the burden of  
15       proof, I will allow you after Mr. Davis does his  
16       closing argument for you to do a rebuttal closing.  
17       In other words, you can respond to anything that  
18       Mr. Davis has said.   But you will go first.   Then it  
19       will be Mr. Davis and then it will be you.

20                       Do you need time to put your thoughts  
21       together or are you ready to go to closing?

22              MR. IVEY:   I guess I will go ahead and go to

1 closing.

2 JUDGE TAPIA: Mr. Ivey, whenever you are  
3 comfortable.

4 MR. IVEY: As this case pertains, I had no  
5 knowledge that Ameren had changed the policy for how  
6 people got their service done. The four times I got  
7 service through them, it was always come down, show  
8 your social security card, your driver's license and  
9 sign the paper, so they knew who you were. And for  
10 somebody to call in to Ameren, as they said, and gave  
11 my information, most kids know all the information,  
12 they know where their parents live, they know their  
13 parents' name and most kids know their parents'  
14 social security number because you need it for  
15 anything they do at school, anything, any more.

16 And he wasn't sure whether it was a  
17 man or female, not him, but Ameren isn't sure the  
18 person they talked to was male or female. They  
19 couldn't distinguish. As deep as my voice is, I am  
20 definitely a man. And my daughter has got a lot  
21 higher voice than me. Nobody has ever mistaken her  
22 for a man yet that I know of.

1 Ameren claims I gave her permission.

2 But in one statement they say that they were talking

3 to me, not her. I did not give her permission. We

4 discussed getting it done. And I stated in my

5 statement that I said we would put it in our name

6 under stipulations. And it was repeated in the

7 police report and identity theft report to Ameren.

8 And when I talked to Mr. Fisher that day on the

9 phone, I told him exactly that. We talked for 45

10 minutes and I told him exactly that we, me and my

11 wife, agreed we would have it put in our name if she

12 met the conditions. And she didn't like the

13 conditions. She said she had other options to check

14 out first. And I told them that meant she told me

15 she was going to go to Jeremiah, that kid's father,

16 and have him give her the money to pay the bill off.

17 I got a letter from them the very next

18 day stating that I admitted I agreed to put it in my

19 name so the bill was mine. And that isn't what was

20 said. That was paraphrased. If you take it part of

21 that, yeah, it sounds like it. But if you take the

22 whole statement, no, it don't sound like it and it

1     didn't happen that way.

2                     Mr. Fisher also says that he didn't  
3     receive extra phone calls from me to talk to me about  
4     this to his knowledge. I called over and over and  
5     left messages on his recorder in there. The woman in  
6     the billing department said she would see that he  
7     would call me back. I called her at two weeks. I  
8     finally called Detective Gillson and made a report to  
9     him and he said I will call and get this done, tell  
10    him you have been trying to get a hold of him. He  
11    said, "He will talk to me." So I repeatedly called  
12    them and they did not -- it isn't that they refused  
13    to talk to me; they just didn't return the phone  
14    calls. That isn't a direct refusal; that's just not  
15    doing it. That's a way of getting around it.

16                    At no time did I, I state again, call  
17    Ameren or give my daughter permission to call Ameren  
18    to put my name onto it. And as the police report  
19    shows, I have been a repeated victim of identity  
20    theft, including having to sell my house right now to  
21    get out from underneath the debts that this has  
22    caused.



1                   And my -- I have not been allowed to  
2     give this information because I was told and assumed  
3     -- first, it was personal, had to be turned in later,  
4     and they wouldn't accept it and it was supposed to be  
5     part of my closing statement of proving. The last  
6     time I talked to the judge, she said you will have to  
7     prove that --

8           MR. DAVIS: Your Honor, I object.

9           MR. IVEY: Your burden of proof is to put  
10    evidence, to bring evidence with you to prove that  
11    you did not live at that address.

12          JUDGE TAPIA: Mr. Ivey, hold on. He has an  
13    objection so I have to rule on it. I am sorry, can  
14    you state your objection?

15          MR. DAVIS: The issues that Mr. Ivey is  
16    addressing do not address the facts that have been  
17    admitted into evidence. They address an evidentiary  
18    ruling that was made earlier in this case. It's  
19    irrelevant, cannot be covered in closing, and I move  
20    to strike it.

21          JUDGE TAPIA: A response before I rule?

22          MR. IVEY: I am not adding evidence into it. I

1 am not reading this evidence.

2 JUDGE TAPIA: Objection sustained. I made my  
3 ruling as far as the exhibits that were admitted. If  
4 exhibits were not admitted, it wouldn't be  
5 appropriate to talk about it in your closing. It is  
6 usually what you need to sum up what you have proven  
7 because it's you that have the burden. So you can  
8 continue. The objection is sustained.

9 MR. IVEY: I feel my police report and my  
10 affidavit proves well enough, and Ameren's own  
11 testimony where I lived at, prove that I lived at  
12 1186 Upper Spring Bay Road. And through their  
13 testimony and the police report prove my daughter  
14 lived at East Gift Street and during that time  
15 somebody else lived there, too, but still my daughter  
16 lived there. At no point in the police report or my  
17 testimony do I say I put that or I called Ameren and  
18 put that in my name, the bill. And at no time has  
19 Ameren stated in their testimony or anything else  
20 that residents were notified that the procedure of  
21 putting something in had become so lax under Illinois  
22 law.

1                   All this testimony and everything,  
2   even this stiff they put in here, is still -- they  
3   had no proof that I called in. They had no proof it  
4   was a man or a female. They said it could be either  
5   one. But in earlier statements they said it was they  
6   talked to a woman. Well, I am not a woman any way  
7   you look at it. I did not put it in mine, that  
8   address in my name, at any time. And my statements  
9   show that.

10               JUDGE TAPIA: Thank you, Mr. Ivey. Mr. Davis?

11               MR. DAVIS: Thank you, Your Honor. The  
12   evidence shows today that Ameren did provide electric  
13   service to an address at East Gift Avenue in Peoria,  
14   Illinois. There is no dispute that the service was  
15   provided. There is no dispute that a bill did ensue  
16   and it is owed by someone on this account. Ameren is  
17   pursuing a service that they did provide and the  
18   charges that they are entitled to for it.

19               The only question for the court today  
20   is a question of fact as to whether this service  
21   should have been placed in Mr. Ivey's name or not.  
22   It is Mr. Ivey's burden of proof that it shouldn't

1     have been put in his name, that someone used his  
2     information inappropriately and apparently, as he  
3     alleged, stole his identity. He hasn't met that  
4     burden today.

5                     Ameren has done nothing but act in  
6     good faith throughout this entire process. They used  
7     the standard procedures that they use to identify  
8     applications from customers or new customers for  
9     service, social security number, address, other  
10    identifying information, to assure that it is the  
11    same caller. We have made multiple attempts to try  
12    to settle this account, working in good faith with  
13    the customer and not treat him any differently than  
14    any other customer in the state of Illinois.

15                    In addition, we have produced evidence  
16    that we wouldn't necessarily even have to. We  
17    identified that the calls could have been female. It  
18    is possible, but we are not sure. We are producing  
19    this evidence in good faith. It is hard for us to  
20    tell, we are not sure, but all of the processes that  
21    we have available to us show that this person on the  
22    phone was likely Mr. Ivey.

1                   Now, when you look at the evidence  
2     that Mr. Ivey produced here in court today, it shows  
3     that there was a discussion between him and his  
4     daughter and that it appears an agreement ensued  
5     wherein he agreed to have the account put in his  
6     name. That's stated in his direct testimony, in his  
7     closing argument today and in a statement made to our  
8     customer service representative in June of 2008 and  
9     to Detective Gillson in Peoria.

10                   In this case there has been -- he  
11     hasn't presented any criminal finding that identity  
12     theft occurred. There is simply a police report  
13     which any of us could go and produce right now. It  
14     is not necessarily any finding whatsoever. It is  
15     simply a report. He hasn't produced Detective  
16     Gillson as a witness here today. He hasn't produced  
17     his daughter as a witness here today. He hasn't  
18     produced the landlord of this Gift Avenue property to  
19     establish that he didn't live there at any time. He  
20     hasn't produced his wife to establish that he didn't  
21     live at either of these addresses at any time.

22                   In short, he has not met his burden.

1 He hasn't proven that this account shouldn't have  
2 been put in his name from the beginning. His  
3 complaint asks for two forms of relief. One is for  
4 the amount of 900 and some dollars which we have now  
5 determined to be 955.15 to not be due and owing to  
6 Ameren from Kerry Ivey, and then the other relief he  
7 asks for is, vaguely put, for us, for Ameren, to stop  
8 harassing him. That's what the prayer for relief  
9 says. The evidence shows here today that he was not  
10 harassed by Ameren. They were simply trying to  
11 collect a bill, did nothing improper, no evidence to  
12 the contrary has been produced.

13                   The evidence also shows that this bill  
14 is due and owing from Kerry Ivey to Ameren, and we  
15 would ask that the complaint be denied.

16           JUDGE TAPIA: Thank you, Mr. Davis. Mr. Ivey,  
17 you have the last word.

18           MR. IVEY: I feel my testimony says that, which  
19 I have repeated over and over, we discussed it.  
20 That's a common thing if somebody wants you to pay a  
21 bill for them or do something, they ask you. That's  
22 a discussion. That's all it was. It wasn't

1 permission. No place in there did I say I gave my  
2 daughter permission to go put it in my name or that I  
3 called in, as you say, I called in and put it in my  
4 name. No place did I say that I called in and put it  
5 in my name. Through everything and all the stuff  
6 that's happened with my daughter, I don't do anything  
7 lightly with her at any time. And because Ameren  
8 changes their policy and the people out here don't  
9 know it, that they become very lax in doing stuff  
10 where they don't get positive identification like is  
11 required by law, that is not my fault because  
12 identity theft is somebody stealing your identity and  
13 pretending they are you. And I think Ameren  
14 understands that because they have a lot of cases.

15                   And my term of harassment was the fact  
16 that you kept turning my electric off after you was  
17 told not to turn it off until this was settled. And  
18 you wasn't returning my phone calls to talk to me  
19 about the issues that I needed clarified and I would  
20 have to call the police to do it.

21                   So that's -- I can't make the police  
22 give any better report than they gave. I did what I

1     was told to do. I gave the information I could find.  
2     Mr. Gillson talked to me several times and I gave all  
3     the information I could give him because I didn't  
4     know that much about what was going on. The first I  
5     knew about the bill actually being in my name was  
6     when you spent me a bill that said you need to pay  
7     this at Gift Avenue, this is your account. I said, I  
8     called them then and asked them, I said I don't have  
9     no account on Gift Avenue. And after two months of  
10    billing me, you switched the account number from Gift  
11    Avenue onto my account number and made it one account  
12    number. So that account number disappeared and now  
13    it appears as just being one account number.

14                   But it still, because somebody called  
15    in and uses my name doesn't mean that I gave them  
16    permission to.

17           JUDGE TAPIA: Mr. Ivey, direct it to me.

18           MR. IVEY: So I am not -- I don't feel I should  
19    be held liable for a bill that somebody else put in  
20    my name and used my identity. There was no direct  
21    proof that I called into them and did this. From day  
22    one there has never been any direct proof, and I have



1     denied it from day one and I didn't even know you  
2     could call in and put electricity in your name on a  
3     telephone. I had no idea of that at all because its  
4     never been done in my life time.

5                     So I feel that Ameren has a  
6     responsibility to find the person who did. They know  
7     who lived there and through their own testimony they  
8     are pretty sure they know who called in, Kelly Ivey,  
9     and through their testimony they say it's been  
10    disconnected several times over there and several  
11    names during that period that she lived there, which  
12    I didn't know about either. I just knew about one  
13    time it's been disconnected. So if they knew all  
14    this stuff and they had a question about the history  
15    over there, because there was so many different names  
16    on it and being disconnected, they should have been  
17    pretty leery about what name was used over there  
18    being a rental property because they knew it was  
19    rental property. And they also know I lived where I  
20    lived. And I kept my bill up with Ameren.

21                    I feel that Ameren has misled the  
22    public in changing their stuff and now wanting the

1 public to pay for the mistakes that they should have  
2 took care of by having written consent, proof of, you  
3 know, who was there, who was getting electricity.  
4 That is their obligation as a company, a public  
5 company, to protect the rest of the public from  
6 consumer fraud like this, identity theft. It's your  
7 obligation as a company to do that. We should never  
8 have to set in these hearings with this judge and  
9 argue about a bill that is not ours because somebody  
10 used our name.

11 JUDGE TAPIA: Anything else, Mr. Ivey?

12 MR. IVEY: I am done.

13 MR. DAVIS: Your Honor, can I make two  
14 housekeeping items?

15 JUDGE TAPIA: Yes. I will close the evidence.  
16 Closing arguments are ended. And, Mr. Davis, you  
17 have something you want part of the record here  
18 today?

19 MR. DAVIS: I do have one objection to two  
20 items that were noted in the closing, just for the  
21 purpose of the record. One was a potential reference  
22 to service being improperly shut off. It was kind of

1 an in passing statement. There was not any alleged  
2 violation in the complaint or in his prayer of relief  
3 that there was a violation of the Public Utility Act  
4 or any of the Code regulations and I would ask that  
5 that reference be stricken and not considered.

6 In addition, in a same vein is there  
7 wasn't any noted violation in his prayer for relief  
8 that Ameren's procedure for accepting new customers  
9 or service by phone as opposed to in person, he does  
10 not allege that this is a violation of the Act  
11 either. So I would ask that for the purposes of your  
12 decision today that those references be stricken.

13 JUDGE TAPIA: Mr. Ivey, your response?

14 MR. IVEY: When I asked him directly in his  
15 testimony if this is a new procedure where they take  
16 calls, you know, take it over the telephone and he  
17 said yes. So he put it in his self. He admitted  
18 that that was the way they do it now. I had no idea  
19 that's the way it was done. I am going under the way  
20 they had me do it when I got my service. I had to go  
21 down and sign. That's the only way I knew it was  
22 ever done.

1           JUDGE TAPIA: I am a little confused that that  
2 covers what Mr. Davis just said.

3           MR. DAVIS: I don't believe. I think it is  
4 separate. Because what he speaks to is an issue of  
5 fact, whether the service was placed in his name at  
6 all. He doesn't allege, though, in his complaint  
7 that that in itself is a violation of the Code, of  
8 the Public Utilities Act or the ICC regulations, and  
9 that's what I ask not be considered. If he has  
10 established successfully with you today that this  
11 account shouldn't be in his name so he shouldn't be  
12 charged, that's one thing. But --

13          MR. IVEY: I'm not saying you have to change  
14 it.

15          MR. DAVIS: To have a negative finding against  
16 Ameren because they would have allegedly not followed  
17 the Code correctly, that's separate and it is not  
18 reported in the complaint.

19          JUDGE TAPIA: Right. Mr. Ivey, any response to  
20 that?

21          MR. IVEY: I am not saying when I said that  
22 statement that Ameren has to go out and change a

1 policy. I am not asking for that. I am stating in  
2 my thing that I didn't know the new policy and I  
3 don't think it fairly protects people, the new  
4 policy. That's all I am saying. I am not saying  
5 they have to change anything on that.

6 JUDGE TAPIA: Okay, I will sustain the  
7 objection since he is not objecting to that part. So  
8 it is stricken.

9 MR. DAVIS: And then my second item is for the  
10 purposes of the record, Mr. Ivey before the hearing  
11 today made statements that he had had a concussion at  
12 some point recently and that his eyes were affected  
13 or something when he came in today. I would just  
14 like for the purposes of the record for him to make a  
15 statement that he understood what he did here today,  
16 that he was in good health and that today he is, you  
17 know, in full mind and body in what he testified to  
18 today.

19 JUDGE TAPIA: Thank you, Mr. Davis. Mr. Ivey?

20 MR. IVEY: Yeah, I am not objecting to that,  
21 no. I am in good health. I have got a headache,  
22 but.

1 JUDGE TAPIA: Okay, then it is granted.  
2 MR. DAVIS: Thank you.  
3 JUDGE TAPIA: Anything else before I close this  
4 case that anyone wants part of the record? Okay.  
5 Then I will mark the case heard and taken as of  
6 today. The proposed order will go out sometime next  
7 week, and I will have dates, probably a week, for  
8 exceptions and reply briefs. If anyone chooses to do  
9 that, I will give leave to the parties to do that.  
10 Then the case is closed. Thank you.

11 HEARD AND TAKEN  
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